

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:18-00222

TODD STEPHENS  
BREE EBERBAUGH

**MEMORANDUM OPINION AND ORDER**

A pretrial motions hearing in this matter was held on January 29, 2019. At that hearing, defendants asked for a continuance of the trial date, currently scheduled to begin on February 6, 2019. In support of the need for a continuance, counsel for Stephens stated that he needed additional time to review discovery recently provided by the government. The court granted the motion to continue.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and GRANTS the defendant's motion to continue. In deciding to grant the motion to continue, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that failure to grant a continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.


Accordingly, the court hereby **ORDERS** as follows:

1. Trial of this action is continued until March 5, 2019, at 9:30 a.m., in Charleston. Jury instructions and proposed voir dire are to be filed by February 25, 2019; and
2. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.\*

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 1st day of February, 2019.

ENTER:



David A. Faber  
Senior United States District Judge

---

\* Stephens has filed a motion reserving the right to file further motions. (ECF No. 40). That motion is **DENIED** without prejudice. Should defendant find it necessary to file further pretrial motions with the court, he should file his motion(s) accompanied by a motion seeking leave to do so out of time.